IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4270 OF 2005

Dinanath Bhikaji Kanade. ... Applicant.

Versus.

The State of Maharashtra. ... Respondent.

Shri A.P.Mundargi with Shri M..Khatavkar for the Applicant.

Ms.M.H.Mhatre, A.P.P. for the Respondent.

Shri Jayakar for the Complainant.

CORAM : ABHAY S. OKA, J.

DATED : 13th July, 2005.

P.C.:

1. Heard the learned Counsel appearing for the Applicant, the learned A.P.P. for State, and the learned Counsel appearing for the Complainant.

2. Offence has been alleged against the Applicant under sections 408, 381, 120-B and section 34 of the Indian Penal Code. This is an application for anticipatory bail.

3. F.I.R. is registered by one Manish Dattatraya Shedge. The case of the complainant is that he is an employee of Indiana Gratings Company Pvt.Ltd. The case is that one B.N.Singh was in-chrge of the units of Indiana Grattings Pvt.Ltd. and Indiana Conveyors pvt.Ltd. from the year 1990. The case of the

complainant is that the Company imported an Electro Forge Gratings Machine in the year 1997 and the company prepared drawings of the said machine and on that basis new machines were manufactured. The case is that a set containing 100 drawings and design of the said machine was entrusted to the said B.N.Singh. The grievance is that the said B.N.Singh proceeded on leave for a period of three months and took employment with a company in Dubai. The allegation is that the said B.N.Singh has taken away with him the said set of 100 drawings and design of the said machine. The allegation is that one Avinash Bawakar, Jagdish Gawale, and R.K.Singh who were employees of the said Indiana Grating Co. left the employment and took up employment in M/s.K.K. Enterprises, Mumbai. The allegation is that the said M/s.K.K.Enterprises is manufacturing the same machine by using the drawings of the machine prepared by Indiana Grating Co.Pvt.Ltd.

4. The application for anticipatory bail made by the Applicant has been rejected by the Sessions Court.

5. This Application for anticipatory bail is made on merits as well as on the ground that the Applicant is suffering from coronary artery disease and is under treatment. Shri Mundargi, the learned Counsel appearing for the Applicant submitted that even taking the F.I.R. for its face value, offences under sections 408 and 381

are not attracted. He submitted that the drawings allegedly prepared by the Complainant's company are not the original drawings in the sense that the drawings are of a machine which is imported by the company of the Complainant. He submitted that when the application for anticipatory bail was argued before the Sessions Court, zerox copies of the drawings which are allegedly found in the office of M/s.K.K.Enterprises and in the bag of the Applicant were shown to the learned Sessions Judge and now it is stated by the learned A.P.P. that the said drawings are sealed on the date on which the same were taken in custody. He pointed out that the co-accused who were arrested have been enlarged on regular bail.

6. The learned A.P.P. pointed out that all the drawings which were in the custody of the Complainant were found in the office of the firm M/s.K.K.Enterprises of which the Applicant is a partner and in the bag of the Applicant. The learned A.P.P. fairly stated that, at this stage, offences under section 381 and 408 of the IPC may not be attracted so far as the Applicant is concerned, but section 120-B of the IPC has been applied. The learned A.P.P. pointed out that the drawings which were shown to the learned Sessions Judge were the same drawings which are sealed and the learned Judge has seen whatever portions of the drawing which can be seen without removing the seal. The learned

Counsel appearing for the Complainant supported the learned A.P.P. and contended that considering the gravity of allegations relief cannot be granted to the Applicant.

7. As stated earlier at this stage, it is apparent that sections 381 and 408 of the IPC cannot be applied to the Applicant. The copy of the seizure panchanama discloses that one Sunil Kanade is the owner of the said firm and the Applicant is its partner. The said Sunil Kanade has been enlarged on regular bail. Moreover, there is no material to show that the co-accused who were the employees of Indiana Gratings Pvt.Ltd. acting in conspiracy with the Applicant brought the drawings and design of the machine to the said firm. In fact, case made out in the complaint is that one B.N.Singh has taken the drawings and design and he has taken up employment in Dubai.

8. As the position stand today, there is hardly any material on record to deny the relief to the Applicant of pre-arrest bail. As stated earlier, the Applicant is suffering from cardiac ailment and some documents are placed on record to that effect.

9. Hence the following order is passed:

(i) In the event of the arrest of the Applicant

in connection with C.R.No. 23/05 of Jejuri Police Station, Dist. Pune, the Applicant shall be enlarged on bail subject to furnishing P.R.Bond in the sum of Rs.25,000/- with one or two sureties of like amount.

(ii) The Bail is granted subject to condition that from the week commencing from 18th July 2005 the Applicant will attend the concerned Police Station on every Thursday and Sunday from 11.00 a.m. to 2.00 p.m. for a period of two months.

(iii) The Bail is granted subject to condition that the Applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him from disclosing such facts to the Court or to the Police Officer/ Investigating Agency. The Applicant shall not tamper with the prosecution evidence.

(iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

(v) This order will enure to the benefit of the Applicant only till charge sheet is filed. Thereafter, he will be free to apply to the appropriate Court for appropriate relief.

(vi) Application is disposed of in above terms.

(vii) The parties to act upon an authenticated copy of this order.

Judge.